

AMENDED IN SENATE JUNE 30, 2014

AMENDED IN SENATE JUNE 11, 2014

AMENDED IN ASSEMBLY MARCH 27, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2735

Introduced by Committee on Insurance (Assembly Members Perea (Chair), Bradford, Ian Calderon, Cooley, Dababneh, Frazier, Gonzalez, V. Manuel Pérez, and Wieckowski)

February 25, 2014

An act to amend Sections 10083 and 10086.1 of the Insurance Code, relating to earthquake insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2735, as amended, Committee on Insurance. Earthquake insurance.

Existing law provides that a policy of residential property insurance may not be issued or delivered or, under certain circumstances, initially renewed by an insurer unless the named insured is offered coverage for loss or damage caused by an earthquake. The required offer of earthquake coverage is authorized to be made prior to, concurrent with, or within 60 days following the issuance or renewal of a residential property insurance policy. If an offer of earthquake coverage is not accepted, insurers are required to subsequently offer earthquake coverage to residential policyholders on an every other year basis.

This bill would provide that if an insurer issues *or causes to be issued* a policy with earthquake coverage ~~that does not meet the minimum coverage requirements~~, *coverages other than the specified coverages, but in accordance with an approved rate application*, no further or other

offer of earthquake coverage meeting the ~~minimum~~ coverage *and deductible* requirements and no further or other notice of noncoverage is required by the insurer if a renewal of that policy is offered, and a written notice is provided with that renewal regarding additional earthquake coverage that is available. The bill would require the form of that written notice to be approved by the Insurance Commissioner, as specified. The bill would also make additional conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10083 of the Insurance Code, as amended
2 by Section 12 of Chapter 369 of the Statutes of 2013, is amended
3 to read:

4 10083. (a) The offer of coverage required by Section 10081
5 may be made prior to, concurrent with, or within 60 days following
6 the issuance or renewal of a residential property insurance policy.
7 If the offer of coverage is mailed to the named insured or applicant,
8 it shall be mailed to the mailing address shown on the policy of
9 residential property insurance or on the application. The offer may
10 be made electronically pursuant to Section 38.5. The offer of
11 earthquake coverage shall contain the following language in at
12 least 10-point boldface type:

13
14 YOUR POLICY DOES NOT PROVIDE COVERAGE
15 AGAINST THE PERIL OF EARTHQUAKE.

16 CALIFORNIA LAW REQUIRES THAT EARTHQUAKE
17 COVERAGE BE OFFERED TO YOU AT YOUR OPTION.

18 WARNING: THESE COVERAGES MAY DIFFER
19 SUBSTANTIALLY FROM AND PROVIDE LESS
20 PROTECTION THAN THE COVERAGE PROVIDED BY YOUR
21 HOMEOWNERS' INSURANCE POLICY. THERE ARE
22 EXCLUSIONS AND LIMITATIONS SUCH AS
23 OUTBUILDINGS, SWIMMING POOLS, MASONRY FENCES,
24 AND MASONRY CHIMNEYS. THIS DISCLOSURE FORM
25 CONTAINS ONLY A GENERAL DESCRIPTION OF
26 COVERAGES AND IS NOT PART OF YOUR EARTHQUAKE
27 INSURANCE POLICY. ONLY THE SPECIFIC PROVISIONS
28 OF YOUR POLICY WILL DETERMINE WHETHER A

1 PARTICULAR LOSS IS COVERED AND, IF SO, THE
2 AMOUNT PAYABLE.

3 THE COVERAGE, SUBJECT TO POLICY PROVISIONS,
4 MAY BE PURCHASED AT ADDITIONAL COST ON THE
5 FOLLOWING TERMS:

6 (A) AMOUNT OF DWELLING COVERAGE: _____

7 (B) APPLICABLE DEDUCTIBLE: _____ IF YOUR LOSS IS
8 BELOW THIS AMOUNT, YOU MAY NOT RECEIVE ANY
9 PAYMENT FROM YOUR COVERAGE.

10 YOUR INSURANCE COMPANY OR AGENT WILL
11 PROVIDE WRITTEN NOTICE AS TO HOW THE
12 DEDUCTIBLE APPLIES TO THE MARKET VALUE OF YOUR
13 COVERAGE, THE INSURED VALUE OF YOUR COVERAGE,
14 OR THE REPLACEMENT VALUE OF YOUR COVERAGE.

15 (C) CONTENTS COVERAGE: _____

16 IF YOUR LOSS DOES NOT EXCEED THE DEDUCTIBLE
17 FOR THE DWELLING, YOU WILL NOT RECEIVE ANY
18 PAYMENT FOR THIS COVERAGE.

19 YOUR INSURANCE COMPANY OR AGENT WILL
20 PROVIDE WRITTEN NOTICE AS TO HOW THE
21 DEDUCTIBLE APPLIES TO THE AMOUNT YOU RECEIVE
22 PURSUANT TO THIS COVERAGE.

23 (D) ADDITIONAL LIVING EXPENSES: _____

24 (E) RATE OR PREMIUM: _____

25 YOU MUST ASK THE COMPANY TO ADD EARTHQUAKE
26 COVERAGE WITHIN 30 DAYS FROM THE DATE OF
27 MAILING OF THIS NOTICE OR IT SHALL BE
28 CONCLUSIVELY PRESUMED THAT YOU HAVE NOT
29 ACCEPTED THIS OFFER.

30 THIS COVERAGE SHALL BE EFFECTIVE ON THE DAY
31 YOUR ACCEPTANCE OF THIS OFFER IS RECEIVED BY US.

32

33 (b) When the insurer, agent, or broker establishes delivery of
34 the disclosure form by obtaining the signature of the applicant or
35 insured, or when an insurer, agent, or broker provides the applicant
36 with the disclosure form and the applicant does not return a signed
37 acknowledgment of receipt within 60 days of the date it was
38 provided, there shall be a conclusive presumption that the insurer,
39 agent, or broker has complied with the disclosure requirements of
40 this section.

1 (c) The offer may contain additional provisions not in conflict
2 with or in derogation of this section.

3 (d) The commissioner may only approve modifications to the
4 language prescribed in subdivision (a) if all of the following
5 conditions are met:

6 (1) The modifications are not in conflict with or in derogation
7 of any provision of this section or Section 10089.

8 (2) The modifications are necessary to ensure that the disclosure
9 statement accurately reflects the coverage actually provided by
10 the policy being offered.

11 (3) The modifications are strictly limited to necessary changes
12 so that the modified disclosure statement is otherwise identical to
13 the disclosure statement prescribed in this section.

14 (e) Use of the language prescribed by this section, or modified
15 language approved pursuant to subdivision (d), shall constitute
16 compliance with the requirements of Section 10081 by an insurer
17 subject thereto.

18 (f) (1) If an insurer issues *or causes to be issued* a policy with
19 ~~earthquake coverage that does not meet the minimum coverage~~
20 ~~requirements~~ *coverages other than the coverages* specified in
21 subdivisions (a) and (b) of Section 10089, pursuant to a rate
22 application approved by the commissioner in accordance with
23 subdivision (c) of Section 10089, no further or other offer of
24 earthquake coverage ~~meeting the minimum coverage requirements~~
25 *as specified in subdivisions (a) and (b) of Section 10089* and no
26 further or other notice of noncoverage is required by the insurer
27 if both of the following apply:

28 (A) A renewal of that policy is offered.

29 (B) A written notice is provided with that renewal regarding
30 additional earthquake coverage that is available.

31 (2) The form of the written notice in paragraph (1) shall be filed
32 with the commissioner at least 30 days before its first use. The
33 form shall not be used if the commissioner disapproves the form
34 of the written notice within that period for being misleading or
35 incomplete.

36 (g) This section shall remain in effect only until January 1, 2019,
37 and as of that date is repealed, unless a later enacted statute, that
38 is enacted before January 1, 2019, deletes or extends that date.

SEC. 2. Section 10083 of the Insurance Code, as added by Section 13 of Chapter 369 of the Statutes of 2013, is amended to read:

10083. (a) The offer of coverage required by Section 10081 may be made prior to, concurrent with, or within 60 days following the issuance or renewal of a residential property insurance policy. If the offer of coverage is mailed to the named insured or applicant, it shall be mailed to the mailing address shown on the policy of residential property insurance or on the application. The offer of earthquake coverage shall contain the following language in at least 10-point boldface type:

YOUR POLICY DOES NOT PROVIDE COVERAGE AGAINST THE PERIL OF EARTHQUAKE.

CALIFORNIA LAW REQUIRES THAT EARTHQUAKE COVERAGE BE OFFERED TO YOU AT YOUR OPTION.

WARNING: THESE COVERAGES MAY DIFFER SUBSTANTIALLY FROM AND PROVIDE LESS PROTECTION THAN THE COVERAGE PROVIDED BY YOUR HOMEOWNERS' INSURANCE POLICY. THERE ARE EXCLUSIONS AND LIMITATIONS SUCH AS OUTBUILDINGS, SWIMMING POOLS, MASONRY FENCES, AND MASONRY CHIMNEYS. THIS DISCLOSURE FORM CONTAINS ONLY A GENERAL DESCRIPTION OF COVERAGES AND IS NOT PART OF YOUR EARTHQUAKE INSURANCE POLICY. ONLY THE SPECIFIC PROVISIONS OF YOUR POLICY WILL DETERMINE WHETHER A PARTICULAR LOSS IS COVERED AND, IF SO, THE AMOUNT PAYABLE.

THE COVERAGE, SUBJECT TO POLICY PROVISIONS, MAY BE PURCHASED AT ADDITIONAL COST ON THE FOLLOWING TERMS:

(A) AMOUNT OF DWELLING COVERAGE: ____

(B) APPLICABLE DEDUCTIBLE: ____ IF YOUR LOSS IS BELOW THIS AMOUNT, YOU MAY NOT RECEIVE ANY PAYMENT FROM YOUR COVERAGE.

YOUR INSURANCE COMPANY OR AGENT WILL PROVIDE WRITTEN NOTICE AS TO HOW THE DEDUCTIBLE APPLIES TO THE MARKET VALUE OF YOUR

1 COVERAGE, THE INSURED VALUE OF YOUR COVERAGE,
2 OR THE REPLACEMENT VALUE OF YOUR COVERAGE.

3 (C) CONTENTS COVERAGE: _____

4 IF YOUR LOSS DOES NOT EXCEED THE DEDUCTIBLE
5 FOR THE DWELLING, YOU WILL NOT RECEIVE ANY
6 PAYMENT FOR THIS COVERAGE.

7 YOUR INSURANCE COMPANY OR AGENT WILL
8 PROVIDE WRITTEN NOTICE AS TO HOW THE
9 DEDUCTIBLE APPLIES TO THE AMOUNT YOU RECEIVE
10 PURSUANT TO THIS COVERAGE.

11 (D) ADDITIONAL LIVING EXPENSES: _____

12 (E) RATE OR PREMIUM: _____

13 YOU MUST ASK THE COMPANY TO ADD EARTHQUAKE
14 COVERAGE WITHIN 30 DAYS FROM THE DATE OF
15 MAILING OF THIS NOTICE OR IT SHALL BE
16 CONCLUSIVELY PRESUMED THAT YOU HAVE NOT
17 ACCEPTED THIS OFFER.

18 THIS COVERAGE SHALL BE EFFECTIVE ON THE DAY
19 YOUR ACCEPTANCE OF THIS OFFER IS RECEIVED BY US.

20
21 (b) When the insurer, agent, or broker establishes delivery of
22 the disclosure form by obtaining the signature of the applicant or
23 insured, or when an insurer, agent, or broker provides the applicant
24 with the disclosure form and the applicant does not return a signed
25 acknowledgment of receipt within 60 days of the date it was
26 provided, there shall be a conclusive presumption that the insurer,
27 agent, or broker has complied with the disclosure requirements of
28 this section.

29 (c) The offer may contain additional provisions not in conflict
30 with or in derogation of this section.

31 (d) The commissioner may only approve modifications to the
32 language prescribed in subdivision (a) if all of the following
33 conditions are met:

34 (1) The modifications are not in conflict with or in derogation
35 of any provision of this section or Section 10089.

36 (2) The modifications are necessary to ensure that the disclosure
37 statement accurately reflects the coverage actually provided by
38 the policy being offered.

1 (3) The modifications are strictly limited to necessary changes
2 so that the modified disclosure statement is otherwise identical to
3 the disclosure statement prescribed in this section.

4 (e) Use of the language prescribed by this section, or modified
5 language approved pursuant to subdivision (d), shall constitute
6 compliance with the requirements of Section 10081 by an insurer
7 subject thereto.

8 (f) (1) If an insurer issues *or causes to be issued* a policy with
9 earthquake coverage ~~that does not meet the minimum coverage~~
10 ~~requirements~~ *coverages other than the coverages* specified in
11 subdivisions (a) and (b) of Section 10089, pursuant to a rate
12 application approved by the commissioner in accordance with
13 subdivision (c) of Section 10089, no further or other offer of
14 earthquake coverage ~~meeting the minimum coverage requirements~~
15 *as specified in subdivisions (a) and (b) of Section 10089* and no
16 further or other notice of noncoverage is required by the insurer
17 if both of the following apply:

18 (A) A renewal of that policy is offered.

19 (B) A written notice is provided with that renewal regarding
20 additional earthquake coverage that is available.

21 (2) The form of the written notice in paragraph (1) shall be filed
22 with the commissioner at least 30 days before its first use. The
23 form shall not be used if the commissioner disapproves the form
24 of the written notice within that period for being misleading or
25 incomplete.

26 (g) This section shall become operative on January 1, 2019.

27 SEC. 3. Section 10086.1 of the Insurance Code is amended to
28 read:

29 10086.1. (a) Where the offer of earthquake coverage has not
30 been accepted, the insurer shall notify the named insured that the
31 policy does not provide that coverage. After the offer on an every
32 other year basis, the notice of noncoverage shall be provided prior
33 to or concurrent with the renewal of the policy of residential
34 property insurance. This section shall not affect any other
35 provisions of this chapter nor shall it affect coverage under the
36 policy of residential property insurance.

37 (b) No further or other notice of noncoverage is required
38 pursuant to subdivision (a) for policies subject to subdivision (f)

- 1 of Section 10083, and the insurer has complied with the conditions
- 2 of subdivision (f) of Section 10083.

O